

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ALABAMA

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	CIVIL ACTION NO. 19-313
	)	
HUBBARD PROPERTIES, INC.,	)	
HUNTER’S POINTE, LLC,	)	
and BETHANY PETZ,	)	
	)	
Defendants.	)	
_____	)	

**COMPLAINT**

The United States of America alleges as follows:

**NATURE OF ACTION**

1. The United States brings this action to enforce Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988, 42 U.S.C. §§ 3601-3619 (“Fair Housing Act” or “FHA”). This action is brought on behalf of Curtis Williams under 42 U.S.C. § 3612(o).

**JURISDICTION AND VENUE**

2. This Court has jurisdiction over this action under 28 U.S.C. §§ 1331 and 1345, and 42 U.S.C. § 3612(o).
3. Venue is proper in this District under 28 U.S.C. § 1391(b) because the events or omissions giving rise to the United States’ claims occurred there and because the Defendants reside there.

**THE PARTIES AND THE SUBJECT PROPERTY**

4. Hunter's Pointe Apartments, located at 3205 Lloyds Lane, Mobile, Alabama ("the Subject Property"), is an apartment complex consisting of approximately 201 units. It is located in the Southern District of Alabama.
5. The units at the Subject Property are "dwellings" within the meaning of 42 U.S.C. § 3602(b).
6. Defendant Hunter's Pointe, LLC ("Hunter's Pointe") is a limited liability company organized under the laws of Alabama. Its principal office address is 2275 Green Springs Highway, Birmingham, AL 35205.
7. At all relevant times, Hunter's Pointe owned the Subject Property.
8. Defendant Hubbard Properties, Inc. ("Hubbard Properties") is a domestic corporation incorporated in Alabama under Alabama law. Its principal office address is 2275 Green Springs Highway, Birmingham, Alabama 35205.
9. At all relevant times, Hubbard Properties operated and managed the Subject Property on behalf of Hunter's Pointe.
10. At all relevant times, Hubbard Properties employed Defendant Bethany Petz ("Ms. Petz") as the property manager at the Subject Property. Ms. Petz was acting within the scope of her employment with respect to her actions described herein.

**FACTUAL ALLEGATIONS**

11. At all relevant times, Curtis Williams ("Mr. Williams") was a person with a disability as defined by the FHA, 42 U.S.C. § 3602(h). He has been diagnosed with cardiomyopathy, chronic systolic heart failure, and severely reduced left ventricular systolic function. He receives Supplemental Security Disability ("SSD") benefits. His disability substantially

limits major life activities, including his ability to work, to walk more than 50 feet without stopping, and to climb one flight of stairs.

12. Mr. Williams began living at the Subject Property in approximately July 2012. He continued to reside at the Subject Property until approximately June 2018.
13. In March 2017, Mr. Williams was hospitalized for approximately one week and treated for congestive heart failure. Mr. Williams became disabled following his hospitalization. Mr. Williams was approved for SSD benefits in July 2017. For purposes of his SSD benefits, the Social Security Administration deemed him disabled as of March 13, 2017.
14. At the time of his hospitalization, Mr. Williams lived in a second floor unit at the Subject Property. He had to climb at least 20 steps to reach his unit.
15. In July 2017, Mr. Williams observed that a ground floor unit in his building was vacant and inquired with Ms. Petz about transferring to the vacant unit because of his disability. Specifically, he explained that he wanted to transfer because his disability limited his ability to climb stairs. Ms. Petz informed Mr. Williams that he would have to submit an application to be considered for a transfer. Ms. Petz also informed Mr. Williams that he should provide a letter from his doctor in support of his request.
16. At the time of this conversation, a ground floor unit in Mr. Williams's building was vacant.
17. On or about August 4, 2017, Mr. Williams gave Ms. Petz a letter from his treating cardiologist. The letter, which was dated August 2, 2017, stated that Mr. Williams had "a significant cardiac history that is notable for cardiomyopathy and systolic congestive heart failure" and that it would be "beneficial for Mr. Williams's overall health to have an apartment downstairs." Ms. Petz retained a copy of the letter and gave Mr. Williams an

application form for purposes of requesting a transfer. At the time, the same ground floor unit in Mr. Williams's building was still vacant.

18. On or about August 11, 2017, Mr. Williams submitted to Ms. Petz an application to request that he be transferred to a ground floor unit at the Subject Property.
19. On his application, Mr. Williams listed his employer as "disability" and marked that he required a ground floor unit as a "special accommodation." Mr. Williams also submitted a copy of his SSD approval letter.
20. The Defendants charged the same rent for both the unit where Mr. Williams resided and the unit to which Mr. Williams applied to transfer.
21. At all relevant times, the Defendants had a written policy that governed requests by residents at the Subject Property to transfer to other units at the Subject Property ("the Transfer Policy").
22. The Transfer Policy permitted residents to transfer to a different unit at the Subject Property provided they

"[h]ave been in their current apartment at least one year[,] [h]as a good payment record (late no more than 3 times in the last twelve months and no more than 1 NSF in the last 12 months)[,] [p]ays a new deposit[,] [p]ays a non-refundable \$200.00 transfer fee[,] [and] [c]urrent apartment must be inspected for damages."
23. The Transfer Policy also provided that "[i]f a resident has not been able to pay their current rent in a timely manner, do not transfer them to an apartment with a higher rental rate."
24. The Defendants also had written "Rental Qualification Guidelines" that stated that the monthly income of an individual applying for a unit at the Subject Property "should be" at least three times the monthly rent for the unit.

25. On or about August 16, 2017, Mr. Williams received a letter from Ms. Petz denying his request to transfer to a ground floor unit at the Subject Property. The stated reason for denying Mr. Williams's request was that his monthly income was less than three times the monthly rent for the unit.
26. Mr. Williams's expected monthly income at the time from his SSD benefit was approximately \$125 less than three times the monthly rent for the unit.
27. On or about August 24, 2017, Mr. Williams approached Ms. Petz and asked her to reconsider the denial. Specifically, Mr. Williams asked that his request to transfer to a ground floor unit be granted despite the Transfer Policy. Ms. Petz stated that Mr. Williams would not be approved for a transfer unless his monthly income was three times the monthly rent for the unit.
28. Between September 2017 and December 2017, at least two other ground floor units in Mr. Williams's building became vacant and available for rent.
29. Following the August 24, 2017, conversation, on at least one occasion, Mr. Williams again inquired with Ms. Petz about transferring to a vacant ground floor unit in his building. In support of his request, Mr. Williams gave Ms. Petz an updated letter from his doctor that described his disability and his need to transfer to a ground floor unit.
30. Ms. Petz again denied Mr. Williams's request to transfer units, saying words to the effect, "I'm sorry, we've been over this. You just don't qualify."
31. In 2016 and 2017, the Defendants approved at least three transfer requests for non-disabled residents at the Subject Property. The Defendants approved these requests despite the fact that the residents did not qualify under the Transfer Policy to transfer units. Two had each made more than four late rental payments during the twelve months

preceding their transfer requests and each requested to transfer to a unit with a higher monthly rent than his current unit; a third had, at the time of her application and her transfer, lived in her current unit for less than one year.

32. On or about June 1, 2018, Mr. Williams moved out of the Subject Property to a ground floor unit at a different apartment complex.

### **HUD ADMINISTRATIVE PROCESS**

33. On or about September 17, 2017, Mr. Williams filed a timely complaint regarding the Defendants' actions with the U.S. Department of Housing and Urban Development ("HUD"). HUD sent notice of Mr. Williams's complaint to the Defendants on or about September 21, 2017.
34. In accordance with 42 U.S.C. § 3610, the Secretary of HUD conducted and completed an investigation of the complaint, attempted conciliation without success, and prepared a final investigative report. Based upon the information gathered in the investigation, the Secretary, in accordance with 42 U.S.C. § 3610(g)(1), determined that reasonable cause existed to believe the Defendants violated the Fair Housing Act. Therefore, on May 8, 2019, the Secretary issued a Charge of Discrimination, in accordance with 42 U.S.C. § 3610(g)(2)(A), charging the above-named Defendants with engaging in discriminatory housing practices on the basis of disability. Specifically, HUD's Charge of Discrimination charged the above-named Defendants with violating 42 U.S.C. § 3604(f)(1), (f)(2), and (f)(3)(B) by refusing to grant Mr. Williams's transfer request and by treating his transfer request less favorably than transfer requests made by non-disabled residents of the Subject Property.

35. On May 28, 2019, the Defendants elected to have the claims asserted in the HUD Charge resolved in a civil action in accordance with 42 U.S.C. § 3612(a). On May 28, 2019, the HUD Administrative Law Judge issued a Notice of Election to Proceed in United States Federal District Court and terminated the administrative proceeding on Mr. Williams's complaint.

36. Following this Notice of Election, the Secretary of HUD authorized the Attorney General to commence a civil action in accordance with 42 U.S.C. § 3612(o).

### **FAIR HOUSING ACT VIOLATIONS**

37. The allegations described above are hereby incorporated by reference.

38. By the actions set forth above, the Defendants have:

- a. Discriminated in the rental, or otherwise made unavailable or denied a dwelling to a renter because of a disability of that renter, in violation of 42 U.S.C. § 3604(f)(1);
- b. Discriminated in the terms, conditions, or privileges of rental of a dwelling, or in the provision of services or facilities in connection with such a dwelling, because of a disability of that renter, in violation of 42 U.S.C. § 3604(f)(2); and
- c. Refused to make reasonable accommodations in rules, policies, practices, or services, when such an accommodation was necessary to afford a person with a disability equal opportunity to use and enjoy his dwelling, in violation of 42 U.S.C. § 3604(f)(3)(B).

39. As a result of the Defendants' conduct, Mr. Williams has been injured and is an "aggrieved person" as defined by 42 U.S.C. § 3602(i).

40. The discriminatory actions of the Defendants were intentional, willful, and taken in reckless disregard of the rights of Mr. Williams.

**PRAYER FOR RELIEF**

WHEREFORE, the United States requests that the Court enter an Order that:

- a. Declares that the Defendants' discriminatory conduct violates the Fair Housing Act;
- b. Enjoins the Defendants, their agents, employees, successors, and all other persons in active concert or participation with any of them from:
  - i. Discriminating on the basis of disability, in violation of the Fair Housing Act;
  - ii. Failing or refusing to take such affirmative steps as may be necessary to restore, as nearly as practicable, Mr. Williams to the position he would have been in but for the discriminatory conduct; and
  - iii. Failing or refusing to take such affirmative steps as may be necessary to prevent the recurrence of any discriminatory conduct in the future;



- c. Awards monetary damages to Mr. Williams in accordance with 42 U.S.C. §§ 3612(o)(3) and 3613(c)(1); and
- d. Awards such additional relief as the interests of justice may require.

Dated: June 24, 2019

Respectfully submitted,

WILLIAM P. BARR  
Attorney General

s/ Eric S. Dreiband  
ERIC S. DREIBAND  
Assistant Attorney General  
Civil Rights Division

s/ Sameena Shina Majeed  
SAMEENA SHINA MAJEED  
Chief

s/ Colin Stroud  
MICHAEL S. MAURER  
Deputy Chief  
COLIN STROUD  
Trial Attorney  
NY State Bar ID: 5402136  
Housing and Civil Enforcement Section  
Civil Rights Division  
U.S. Department of Justice  
950 Pennsylvania Avenue NW  
Northwest Building, 7th Floor  
Washington, DC 20530  
Phone: (202) 514-4737  
Fax: (202) 514-1116  
E-mail: Colin.Stroud@usdoj.gov

Attorneys for Plaintiff  
United States of America

## CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

**I. (a) PLAINTIFFS**

United States of America

(b) County of Residence of First Listed Plaintiff N/A

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Colin Stroud, U.S. Dept. of Justice, Civil Rights Division -- HCE  
950 Pennsylvania Ave. NW, Washington, DC 20530  
(202) 514-4737

**DEFENDANTS**

Hubbard Properties, Inc.,  
Hunter's Pointe, LLC, and  
Bethany Petz

County of Residence of First Listed Defendant Mobile County

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

Kenyon R. Brown  
Maynard Cooper & Gale  
11 North Water St., Ste. 24290, Mobile, AL 36602

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☒ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   | PTF                        | DEF                        |   | PTF                        | DEF                        |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 490 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input checked="" type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<b>PRISONER PETITIONS</b> <b>Habeas Corpus:</b> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <b>Other:</b> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	<b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609

**V. ORIGIN** (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
Fair Housing Act, 42 U.S.C. § 3604(f)(1), (f)(2), & (f)(3)(B)

Brief description of cause:

Discrimination in housing on the basis of disability in violation of the Fair Housing Act

**VII. REQUESTED IN COMPLAINT:**

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☒ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

06/24/2019

SIGNATURE OF ATTORNEY OF RECORD

s/ Colin Stroud

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

## Southern District of Alabama

Civil Action No. 19-313

Signature of Clerk or Deputy Clerk

## Southern District of Alabama

Civil Action No. 19-313

Signature of Clerk or Deputy Clerk

## Southern District of Alabama

Civil Action No. 19-313

Signature of Clerk or Deputy Clerk